

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Danny Gerald Davis,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.: 4:10-cv-383-TLW-SVH
)	
United Healthcare Insurance Company,)	
)	
Defendant.)	
_____)	

ORDER

On February 18, 2010, the plaintiff, Danny Gerald Davis (“plaintiff”), proceeding pro se, filed this civil action. (Doc. #1). The case was referred to United States Magistrate Judge Shiva V. Hodges pursuant to the provisions of 28 U.S.C. § 636(b)(1) and Local Rule 73.02(B)(2), DSC. On September 8, 2010, the defendant, United Healthcare Insurance Company (“defendant”), filed a suggestion of death of the plaintiff in this matter. (Doc. # 37). The Magistrate Judge issued an order on September 14, 2010, mailed to the decedent’s wife at the decedent’s last known address, advising that under Federal Rule of Civil Procedure 25(a)(1) the appropriate party needed to file a motion for substitution with the court by December 7, 2010, if that party wished to proceed on the decedent’s behalf. (Doc. # 38). No such motion for substitution has been filed.

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by the Magistrate Judge to whom this case had previously been assigned. (Doc. # 40). On December 8, 2010, the Magistrate Judge issued the Report. In the Report, the Magistrate Judge recommends that this case be dismissed without prejudice pursuant to Federal Rule of Civil

Procedure 25(a)(1) because no motion for substitution has been filed. (Doc. # 40). No objections have been filed to the report. Objections were due on December 29, 2010.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has carefully reviewed the Magistrate Judge's Report and Recommendation. It is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED**. (Doc. # 40). For the reasons articulated by the Magistrate Judge, this case is **DISMISSED** without prejudice because no motion for substitution as required by Federal Rule of Civil Procedure 25(a)(1) has been filed.

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

January 28, 2011
Florence, South Carolina